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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,233	12/15/2003	Cameron F. Quigel	0051-011P1	3145
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HENNEMAN & ASSOCIATES, PLC 714 W. MICHIGAN AVENUE THREE RIVERS, MI 49093				
			EXAMINER	
			BLACKWELL RUDASIL, GWENDOLYN A	
			ART UNIT	PAPER NUMBER
			1775	
DATE MAILED: 08/22/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/736,233

Applicant(s)

QUIGEL, CAMERON F.

Examiner

Gwendolyn Blackwell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) 22-44 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-6,8-12,18 and 21 is/are rejected.
- 7) ☒ Claim(s) 3,7,13-17,19 and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group I, claims 1-21, in the reply filed on May 8, 2006 is acknowledged.

Drawings

2. Figure 9 is objected to because the decorative structure demonstrated in the drawing seems to be in the reverse. It is unclear how the decorative structure as depicted, with the anchoring member in the ground, could resemble the unwound decorative structure of Figure 1. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claim 2 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,663,921. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 2 of the pending application contains all of the limitations of claim 1 of the patented invention. Each of the claims is drawn to a decorative structure that contains a lengths of strand material twisted with respect to one another and being fixed with respect to one another near the first ends of said strands, a twisting member having a plurality of apertures, and wherein each of said strands is positioned through a respective aperture wherein advancing said twisting member from second ends of said strands toward said first ends of said strands causes said strand material to unwind.

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The anchoring member of the present invention is considered to meet the limitations of the coupling device as it performs the same function as outlined in the claims and both are oriented near the first ends of the strands.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6 contains the limitation, in part, "...wherein said coupling devices comprises said anchoring member". Claim 6 depends from claim 5, which depends from claim 4. Claim 4 includes the limitation, that claim 1 in addition to having an anchoring member "...further including a coupling device..." Because claim 1 includes the limitation that there is an anchoring member present, it is unclear if the coupling device of claim 6 is another anchoring member, or whether the anchoring member of claim 6 refers back to the anchoring member of claim 1. Clarification is required.

Claim Objections

7. Claim 6 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the

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claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Claim 6 does not further limit the parent claim as claim 1, already contains the limitation of there being an anchoring member present. Clarification is required.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1, 4-5, 8-11, 18, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent no. 3,723,723, Lerner.

Regarding claim 1

Lerner discloses a Christmas tree light decoration (decorative structure) as illustrated in Figures 5-7. Figure 5 demonstrates a decorative structure comprised of a connector (20) (anchoring member), a ring (37) (twisting member), and light strings (50) (strand material). Figure 6 demonstrates how the light strings hang in a formation that resembles the strings twisting with respect to one another. Figure 7 demonstrates the ring (37) structure wherein the ring is used to hold the lights through the use of apertures in the ring, (column 3, lines 36-65), meeting the limitations of claim 1.

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Regarding claims 4-5, 8-11, 18, and 21

Figure 2 demonstrates a connector (20) (anchoring member) comprised of soldered junctions (18) (weld) and terminals (19) (coupling devices) that serve to fix the strings together, (column 2, lines 10-27), meeting the limitations of claims 4 and 5.

Figure 2 demonstrates that the connector (20) includes a cover portion (31), which covers the ends of the light strings, meeting the limitations of claims 8 and 9.

The ring used to hold the light strings is in the shape of a disc with a hole to fit each light string, (Figure 7), meeting the limitations of claims 10 and 11.

The light strings are made of a wire material which is being considered as semi-rigid, (column 3, lines 17-25). The attachment point of the light bulbs to the wire is considered as a container, (Figure 3, (17), meeting the limitations of claims 18 and 21.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent no. 3,723,723, Lerner as applied to claim 1 above.

The limitations of claim 1 are set forth above. Lerner does not specifically disclose that the shape of the apertures are oblong in shape.

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Absent a showing as to the criticality of the shape of the aperture, it would have been obvious to one skilled in the art at the time of invention to make the shape of the aperture in any shape dependent upon design choice. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966)

Allowable Subject Matter

12. Claims 3, 7, 13-17, and 19-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The closest prior art of record (Lerner) does not teach or suggest the combination of structural features as set forth in the aforementioned claims. In particular, the twisting member of Lerner cannot function in the manner claimed in claim 3 which involves advancing the member from the first ends of the strands towards the second ends of the strands causing the strand material to wind up.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


United States Patent nos: 1,976,093; 4,011,674; 4,620,270, and 6,162,515 are cited as general background.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gwendolyn Blackwell whose telephone number is (571) 272-1533. The examiner can normally be reached on Monday - Thursday; 6:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jennifer McNeil can be reached on (571) 272-1540. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Gwendolyn Blackwell
Examiner
Art Unit 1775

gab